



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,609	10/09/2001	Shlomo Gabay	SHEP5010US	8158
26294	7590	02/25/2008		
TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P. 1300 EAST NINTH STREET, SUITE 1700 CLEVEVLAND, OH 44114			EXAMINER	
			PELLEGRINO, BRIAN E	
		ART UNIT	PAPER NUMBER	
		3738		
		MAIL DATE	DELIVERY MODE	
		02/25/2008	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address : COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
09973609	10/9/01	GABBAY, SHLOMO	SHEP5010US
		EXAMINER	
		Brian E. Pellegrino	
		ART UNIT	PAPER
		3738	20080218

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The reply brief filed 12/10/07 has been considered and entered. Applicant argues that the dimensions are not proven to be evident by the prior art. The Examiner attempted to provide some logical reason, that it appears was not clear. Since the coaxial components have a dimension for one component that falls within the claimed range, it is common sense that the other coaxial components would have similar dimensions. They clearly would not be greatly different since the catheter is used in a small diameter location, that is the blood vessels. Second Applicant argues, the modification is not obvious, and uses hindsight. Clearly one of ordinary skill in the surgical art has the knowledge to perform a surgery and understands the complications or obstacles at the surgical site where the device is used. There are often difficult locations that involve far reaching delivery of surgical instruments that only permit small or narrow elements to be positioned therein. To place the cylindrical member end at a distance only involves routine skill in the art, see KSR. Thus, in response to Applicant's remarks that there is no teaching in the reference to modify the feature (placement of body stabilizing portion) at a distance from the end, it should be noted that Ex parte Smith 83 USPQ2d 1509 states the KSR decision explains why no teaching is required to support a finding of obviousness. For example the movement or relocation of a known features is obvious when it does nothing more than produce predictable results. The application has been forwarded to the Board of Patent Appeals and Interferences for decision on the appeal.

/Brian E Pellegrino/
Primary Examiner, Art Unit 3738